

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

WEDNESDAY, THE TWENTY EIGHTH DAY OF MAY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT JUSTICE K. SUJANA

CRIMINAL PETITION NO: 6515 OF 2024

Between:

1. Rahul Goud, S/o M.Sridhar, Aged about 26 years, Occ- Advertising Executive, R/o H.No 3-12, Jeedimetla, Suchitra Circle, Hyderabad (A-5)
2. Kundan Reddy, S/o T.Bhoopal Reddy, Aged about 26 years, Occ-Associate in Genpact, Hafeezpet R/o H.No 67-1, Sainagar Colony, Lothukunta, Thirumalgi, Medchal, Hyderabad (A-6)
3. M.Ayushman Reddy, S/o M.Raghunath Reddy, aged about 23 years Occ-Unemployed, R/o H.No 5-31/5, Srilaxminagar Colony, Old Alwal, Hyderabad. (A-7)

...PETITIONERS/ACCUSED

AND

The State of Telangana, Represented by its Public Prosecutor, High Court for the State of Telangana, at Hyderabad.

...RESPONDENT/COMPLAINANTS

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash all further proceedings in S.C.NDPS.No. 12 of 2023 on the file of I Additional Metropolitan Sessions Judge at Nampally, Hyderabad in the interest of justice

I.A. NO: 2 OF 2024

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings including the appearance of the petitioners in S.C. NDPS.No. 12 of 2023 on the file of I Additional Metropolitan Sessions Judge at Nampally, Hyderabad pending disposal of the above Criminal petition

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri T. Pradyumna Kumar Reddy, representing for Sri T. S. Anirudh Reddy, Advocate for the Petitioners and Sri E. Ganesh, Assistant Public Prosecutor on behalf of the Respondent.

The Court made the following: ORDER

THE HON'BLE SMT. JUSTICE K. SUJANA.

CRIMINAL PETITION NO.6515 OF 2024

ORDER:

This Criminal Petition is filed under Section 432 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') to quash the proceedings against the petitioners in S.C.NDPS.No.12 of 2023 on the file of I Additional Metropolitan Sessions Judge at Nampally, wherein the petitioners herein are accused Nos.5 to 7. The offences alleged against them are under Section 8 (c) r/w.20 (b) (ii) (C) and 27 of NDPS Act.

2. The facts of the case are that on 29.03.2024, the S.I. of Police, lodged a report before the concerned police stating that he received a credible information that two persons are coming to Druva Enclave on their bike, without any number plate for delivering Hash oil to one person by name P.Chandrashekar at Druva Enclave. Believing the information to be true, he followed the guidelines and informed the same to his superior officers, obtained permission from ACP, Begumpet to verify the veracity of information. He along with his staff rushed to the spot along with sufficient NDPS investigation kit and tried to apprehend three suspects among which one escaped from the spot. The two suspects were taken into custody. On enquiry, they

disclosed their names and confessed that they are in possession of Hash oil. The complainant informed them that possession of the same is an offence under Section NDPS Act, taken them to Gazetted officer and secured mediators. On physical search they found cash of Rs.1500/- and on search of their bike they found two bottles along with one small tin of Hash oil at the instance of P.Naresh Reddy, found four small tins of Hash oil from the possession of Chandra Sekhar. Later recorded the confession statement of accused in the presence of Gazetted officer. In their confession, they stated that they brought from one Krishna and that they are partners. They also confessed that they used to procure Hash oil for lower price from peddler Krishna for selling. It is also stated that they used to contact over phones, regular whatsapp, telegram, and other social networks. On instructions of Chandrasekhar they tried to deliver the Hash oil at isolated place of Druva Enclave. The said Chandrasekhar reached the spot to collect the Hash oil and at around 20.10 hours they all met at Druva Enclave and while Naresh Reddy is about to deliver, the police interrupted them and caught hold them. Basing on the said contents, the police registered the case, investigated and filed charge sheet.

3. Heard Sri T.Padyumna Kumar Reddy, learned Senior Counsel appearing for Sri T.S.Anirudh Reddy, learned counsel for the petitioners and Sri E.Ganesh, learned Assistant Public Prosecutor appearing for the respondent.

4. The contention of learned counsel for the petitioners is that punishment for consumption of any Narcotic drug or psychotropic substance is punishable under Section 27 of the NDPS Act. The petitioners were not found in possession nor they were involved in sourcing of any prohibited narcotic drug or psychotropic drug and they were implicated in this case only on the basis of confession statement of A.3 which is not admissible. The same was observed by the Hon'ble Supreme Court in **Tofan Singh Vs State of Tamilnadu**¹. He further contended that though phones of the petitioners were seized, the same were not sent to FSL as to how these petitioners had contacted A.1 to A.4. No blood samples were taken from the petitioners to prove that they were in the habit of consuming Narcotic drugs. From a bare reading of FIR and charge sheet, it is seen that there is no evidence put forth by the prosecution apart from seizing cell phones that they have committed the offence. He relied on the

¹ (2021) 4 SCC 1

order of this Court in CrI.P.No.11743 of 2023 wherein this Court quashed the proceedings against the consumers. He further contended that except recovering cell phones from the petitioners there is no other material seized from them. As such, prayed the court to quash the proceedings against the petitioners.

5. On the other hand, learned Assistant Public Prosecutor would submit that in the confession statement of A.3, it is clearly stated that drugs were supplied regularly to the petitioners. As such, prayed the Court to dismiss this petition.

6. Having regard to the submissions made by both counsel and material placed on record, it is seen that there are clear allegations against these petitioners that they are the consumers of Narcotic drugs and A.3 used to supply hash oil and selling the same to these petitioners. However, the investigating officer has not collected the evidence to connect these petitioners with the offence except the statement of co-accused. Though the investigating officer collected cell phones of these petitioners to show that A.3 called these petitioners, no call data is filed and the cell phones were not sent to FSL. Except the confession statement of co-accused there is no other

evidence collected by the investigating officer. In similar circumstances the Apex Court in **Surinder Kumar Khanna Vs Intelligence Officer, Directorate of Revenue Intelligence**², in paragraph Nos.13 and 14 observed as under :

"13. In the present case it is accepted that apart from the aforesaid statements of co-accused there is no material suggesting involvement of the appellant in the crime in question. We are thus left with only one piece of material that is the confessional statements of the co-accused as stated above. On the touchstone of law laid down by this Court, such a confessional statement of a co-accused cannot by itself be taken as a substantive piece of evidence against another co-accused and can at best be used or utilised in order to lend assurance to the Court.

14. In the absence of any substantive evidence it would be inappropriate to base the conviction of the appellant purely on the statements of co-accused. The appellant is therefore entitled to be acquitted of the charges levelled against him. We, therefore, accept this appeal, set aside the orders of conviction and sentence and acquit the appellant. The appellant shall be released forthwith unless his custody is required in connection with any other offence."

7. Further, in **Tofan Singh's** Case also, the Hon'ble Supreme Court held that sole confession statement of co-accused cannot be a basis for conviction. In the case on hand also the investigating officer has not collected any evidence to connect these petitioners with the crime except the confession statement of A.3. Neither the cell phones of these petitioners were sent to the FSL nor their blood samples was collected to prove that they

² (2018) 8 Supreme Court Cases 271

consumed any of the alleged narcotic drugs. In view of the observations of the Apex Court in the above judgment, basing on the confession statement of A.3 without any corroborative evidence, petitioners cannot be held liable. As such, continuation of proceedings against these petitioners is nothing but abuse of process of law. Hence, the proceedings against the petitioners are liable to be quashed.

8. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioners in S.C.NDPS.No.12 of 2023 on the file of I Additional Metropolitan Sessions Judge at Nampally, are hereby quashed.

Miscellaneous petitions, pending, if any, shall stand closed.

SD/- T.TIRUMALA DEVI
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The I Additional Metropolitan Sessions Judge at Nampally
2. The Station House Officer, Bollaram Police Station, Hyderabad
3. Two CCs to the Public Prosecutor, State of Telangana, High Court Buildings at Hyderabad[OUT]
4. One CC to Sri T. S. Anirudh Reddy, Advocate [OPUC]
5. Two CD Copies

Plp/PSL

PA

HIGH COURT

DATED:28/05/2025

VACATION COURT

ORDER

CRLP.No.6515 of 2024



ALLOWING THE CRL.P.

PA
⑧ 2/6/25